

## NEWINGTON TOWN PLAN AND ZONING COMMISSION

October 22, 2008

Regular Meeting

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

### **I. ROLL CALL**

#### Commissioners Present

Commissioner Fox  
Commissioner Ganley  
Chairman Hall  
Commissioner Kornichuk  
Commissioner Pane  
Commissioner Pruett  
Commissioner Schatz  
Commissioner Camerota  
Commissioner Casasanta  
Commissioner Niro

#### Commissioners Absent

#### Staff Present

Ed Meehan, Town Planner

### **II. PUBLIC HEARINGS**

- A. PETITION 46-08 – 240 Day Street, former Merrow Machine Co., 240 Day Street, LLC owner, Mill Pond Church, Inc., 705 North Mountain Road, Suite A-210, Newington, CT 06111 contact Joel Ressinger, Senior Pastor, request for Special Exception, Section 3.2.1 Church Use, I Zone District. Continued from October 7, 2008.**

David Griffith: Good evening, my name is David Griffith, I am here tonight to represent the applicant, Mill Pond Church, Inc., and I'm here with Pastor Joel Ressinger. As the Commission knows, this is a continuation of a public hearing and at that public hearing Attorney Kelly had spoken to you and made a presentation on behalf of the church. I just wanted to review with you, very briefly the basics of this application and then I'm going to pass it on to Reverend Ressinger in terms of a couple of particulars that were open issues from last time.

The application is for a special exception under Section 3.2.1. This is an industrial zone, as you know. Churches are permitted in all zones in Newington subject to meeting criteria of the special exception. In regards to the special exception criteria under Section 5.2, there has been evidence presented already in regards to a need, that is there is a long term vacant building of which the church will fill a portion of that building. In regards to the present and future reuse of the neighborhood, it is a neighborhood that is somewhat in transition. It's industrial in nature to some extent. There is an existing church across the street. In regards to the building itself, the footprint of the building is going to remain the same, in regards to traffic circulation both in

regards to, within the site, there are minimal traffic issues and as far as feeding onto the adjoining street, again that is mainly because the church use, which is of course during Sunday mornings  
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and also Wednesday evenings at this point is a time when traffic is not going to be a big factor. In regards to parking, there are again I'm reiterating, thirty, approximately thirty spaces adjacent to the building and the applicant will comply with all requirements in regards to handicapped parking. There is also parking across the street, for at least one hundred spaces, and the owner/landlord is prepared to, if required expand, or if necessary expand the number of parking spaces. Parking again is not going to be an issue in regards to the use of the space for a church purpose, there are some other businesses in the building, but they are small in nature. Having said that I want to turn it over to Reverend Ressinger. There are a couple of issues, one in regard to the façade improvements and also the exterior lighting.

Pastor Joel Ressinger: Good evening everyone. Both times now, my attorney has told me, keep it brief. I think my reputation has preceded me somehow, so I will do that, we'll just hit the highlights. I think the last time there was a question about the façade, we had mentioned potentially some aesthetics that we wanted to implement to make it a little prettier, a little nicer on the outside, some things we would like to do. We have the limitations of not going out more than twelve inches from the current front of the office building. Talked to the landlord, the owner, Tony Galazan, he's totally understanding of that and we will keep within that regulation. The columns may have to go, which is fine, but we will do some kind of nice stucco front to make it more appealing than it is now.

The other question was about lighting across the street and the extended parking area and Tony has assured me that he will provide whatever lighting is necessary to keep that safe and to comply with the regulations there, and he's willing to foot the bill on that, so that's nice for us and that should hopefully meet the requirements that you stipulated last time we met.

I think those were the primary things. We are very excited about the potential to use the building 24/7 and have that kind of access. We do of course understand that our use is primarily Sunday morning and Wednesday night as far as large crowds are concerned, thus the other 42,000 or so square feet of the facility that could still be leased out for industrial use because the special exception would only apply to the just under ten thousand square feet that we would be using, and actually of that, a good portion is already office space. We would not interfere, and the owner is also obviously interested in not having us interfere with the use of the other forty or so thousand for industrial use during the week. We don't anticipate that it would, during the week, our needs are fairly limited during the day, most of the activities that we do are in the evening, and again, the primary large group meeting is Sunday morning. Right now we have two services, 8:30 and 10:30, with this facility, we would probably just have a ten a.m. service. We don't foresee that there would be any other clients in the building, other businesses in the building at that time. That's pretty much it.

David Griffith: That's all we have unless there are questions?

Chairman Hall: Ed, do you have anything to add?

Ed Meehan: The only thing I would add is that the issue of the façade improvements around the entrance, if that is going to be pursued by the church, the Commission ought to have a more formalized drawing in front of you at some point in time, so that you can evaluate that. The lighting issue has been addressed, parking is certainly sufficient there, although I think the spaces need to be striped and cleaned up.

The property is on the edge of an area which is somewhat in transition, south side of Francis Avenue is an R-7 residential zone, and there is a church right across the street from this facility, a long standing operation as a church. So the compatibility is something that the Commission may want to talk about. I know through this public hearing and the prior one the applicant is aware of the compatibility issue with possible future tenants at 240 Day Street, that has to be kept in mind

as far as parking arrangements and so forth, so I think you have pretty much all of the information that I would recommend that you have in your hearing file.  
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Chairman Hall: Questions from the Commissioners?

Commissioner Schatz: We covered a lot of this stuff at the last meeting, so.....

Pastor Joel Ressinger: I don't mean to interrupt, but we did post the sign as required.

Chairman Hall: Yes, we got a couple of calls, that's a good thing.  
All right, if there are no other questions from the Commissioners, if there is anyone from the public wishing to speak in favor of this petition, now is the time to speak. Anyone wishing to speak in favor? Anyone opposed to the petition, now is the time to speak. Anyone wishing to speak in opposition? Anyone wishing to speak? Seeing none, thank you very much.

David Griffith: I just have one question of the Commission, does the Commission intend to act on this application tonight?

Chairman Hall: That is going to be up to the group.

David Griffith: Just asking in terms of hanging around. Thank you.

Chairman Hall: Thank you.

**III. PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes.)

Chairman Hall: Is there anyone wishing to speak? I think I heard some background that maybe somebody wanted to speak, but they didn't know whether we had something on the agenda, or not?

Karen Brecker: I would like to speak, but it is on the agenda.

Chairman Hall: It's on the agenda only under remarks, at this time, it's not really a specific item, so that I think that I would like to give you the opportunity, if you have something that you want to say this evening.

Karen Brecker: Thank you letting me come up here and speak. My name is Karen Brecker and I'm the chairperson of the Commission on Aging and Disabled and Myra Cohen keeps us informed of the Accessory Apartment draft zoning, the in-law apartments, regulations. It's on our agenda every month and it's something that is near and dear to our hearts so we asked Diane Stone to report to us as to what was going on, and she asked Ed Meehan to come speak at our next meeting. When we saw it on the agenda tonight, we got a little nervous, so I figured I would come to the meeting. I read your discussion from the July meeting and I know that the issue is really complex and the Commission would just like to ask you please, not to give up. Keep trying to come up with wording that will allow related people to care for each other, foster their independence, their autonomy, live in close proximity while prohibiting places that are effectively boarding houses. So, that is how we feel, and we would like you to keep working on it. I was on the internet and there are other states and other towns and other cities that are struggling with the same issues, and I found something from a New Hampshire town and it's a special exception and it tells what they are doing, and I don't know if you are interested in looking at it, or not, but I guess it's a problem around the country. That's all I have to say.

Chairman Hall: Thank you. Anyone else wishing to speak this evening?

Commissioner Pane: Madam Chairman, just a comment on her remarks, if I could. Nothing in our regulations right now stops somebody from doing exactly what she has just said, except that you just can't add that second kitchen. So, we're not preventing a family member from taking care of another family member, it's just that you are going to sit down at the dinner table with that family member, and if it's an older person, or whatever, nothing stops, anything in our regulations right now, so that could take place, you could take care of somebody that is sick, an elderly person, a family member, somebody with, anybody that you feel that you need to take care of, in that home, and you can divide it up a little bit, it's just that you can't add that second kitchen. So we're not prohibiting care, and I just want to make sure that they understand that, if something comes up and somebody has some issues, well, they can have them come into the house, and they can still take care of them, it's just that you can't have that second kitchen, yet. Just wanted to make that comment.

Chairman Hall: Thank you, Commissioner Pane.

Commissioner Pane: Thank you.

#### **IV. MINUTES**

October 7, 2008 – Regular Meeting

Commissioner Fox moved to accept the minutes of the October 7, 2008 regular meeting. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

#### **V. COMMUNICATIONS AND REPORTS**

None

#### **VI. NEW BUSINESS**

None.

#### **VII. OLD BUSINESS**

Commissioner Pane recused himself from Petition 43-08.

Commissioner Fox moved to add Petition 46-08 to Old Business. The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with six voting YES.

##### **A. PETITION 43-08 – 105B Pane Road, Roberto Cerasani applicant, 11 Watch Hill Circle, Cromwell, CT 06416 applicant, 105/113 Pane Road Complex, LLC owner, request for Special Permit Section 3.18 Amendment of Certificate of Location, Auto Repairer, PD Zone District. Sixty-five day decision period ends November 28, 2008.**

Commissioner Ganley moved that PETITION 43-08 – 105B Pane Road, Roberto Cerasani applicant, 11 Watch Hill Circle, Cromwell, CT 06416 applicant, 105/113 Pane Road Complex, LLC owner, request for Special Permit Section 3.18 Amendment of Certificate of Location, Auto Repairer, PD Zone District, be approved based on the following findings and conditions:

**A. Findings**

1. 105B Pane Road was approved for motor vehicles Automobile Dealer's/Repairer's Licenses by the Newington Zoning Board of Appeals, November 9, 1972.
2. Operation of the repairer services at this location, and within the same 2,000 square foot floor space is the lawful continuation of a pre-existing use that became legally non-conforming by amendments to the Zoning Regulations, effective August 15, 2007 which deleted auto related uses. (Section 5.1.2 Zoning Regulations.)
3. The Commission finds the use of 105B Pane Road for auto repairer will not expand the nonconformity and as such is protected by Section 8-2 of the Connecticut Zoning Statutes.

**B. Conditions**

1. The 'Improvement Location Survey' map dated 4-19-05, prepared by BGI Land Surveyors Shall be revised to reference the existing 2,000 square foot auto repairer location that its applicant, Roberto Cerasani, will occupy.

The motion was seconded by Commissioner Pruett.

Commissioner Ganley: First of all Ed, I appreciate the research that you did on this, and I just want to make sure to preclude or at least strengthen our position as it may relate to someone trying to do something with another piece of some similarity. I'm not going to read, but I'm going to reference, as part of the record the October 7<sup>th</sup> minutes pages ten through fourteen, which we had a very in-depth discussion about what this whole thing meant, and we all left with a full understanding of how this would work, and who would be precluded from trying to side step the regulations, or infer from our passing this that it means something other than exactly what is in this particular motion. Thank you.

The vote was unanimously in favor of the motion, with six voting YES.

Commissioner Pane returned to the table.

**Petition 46-08**

**240 Day Street**

**Special Exception – Church Use**

Commissioner Schatz moved that PETITION 46-08 – 240 Day Street, former Merrow Machine Co., 240 Day Street, LLC owner, Mill Pond Church, Inc., 705 North Mountain Road, Suite A-210, Newington, CT 06111 contact Joel Ressinger, Senior Pastor, request for Special Exception, Section 3.2.1 Church Use, I Zone District be approved for use by the Mill Pond Church Inc. under the following conditions:

1. The church's occupancy is limited to ground floor use of the southerly end of the building, an area of approximately 9,282 square feet.
2. The existing parking spaces for this property located across Day Street and adjacent to the front and south sides of the building shall be repainted.  
Handicapped parking spaces, minimum two, shall be provided adjacent to the sidewalk leading to the church's front entrance.

3. Building wall lighting shall be evaluated to assure adequate coverage for parking adjacent to the building and walkways.
4. The westerly driveway opening onto Francis Avenue shall be posted for "No Exit."
5. Proposed façade elevation modifications to the area of the building to be occupied by Mill Pond Church, Inc. shall be submitted to, and approved by the Commission prior to the issuance of the building permit for this work.
6. This Special Exception is limited to Mill Pond Church, Inc. and can not be transferred to another church use without the prior approval of the Commission.
7. This Special Exception shall be valid for one year from the date of this approval. If the church's Certification of Occupancy is not issued within this one year time limit the Special Exception shall be terminated.

The motion was seconded by Commissioner Pruett.

Chairman Hall: Comments, questions? I have just one thing that I want to state, in six, special exception is limited to Mill Pond Church and cannot be transferred to another church use, and that includes obviously another church, for it's use, or church use in the sense that we are assuming now that it is for the congregation to meet for services. We have no knowledge that it would ever become say a shelter or a soup kitchen, or any of those uses. We are approving this with the idea that it is a place of worship and congregation, not overnight housing, or soup kitchen, or any of that, so the church use is as a church function.

Commissioner Pane: Maybe you should state some of that in your conditions.

Ed Meehan: We can make number eight. It's pretty clear, but if you want.....it could get lost in the minutes if you don't put it in the motion.

Commissioner Pane: Madam Chairman, are you referring that if this church moves out, two years from now, after it goes in there, that another church can't go in there again?

Chairman Hall: They could, but they would have to come back before us again. It's not going to be an automatic, that they can say we have been a church.....

Commissioner Pane: It travels with the property, special exceptions travel with the property, can that be done?

Ed Meehan: If you put conditions and it doesn't, it has to be renewed or.....

Commissioner Pane: So it would have to be renewed, it couldn't be denied because it was already approved for a special exception. So it would have to be renewed.

Ed Meehan: If it is of the same character that you are approving tonight, chances I would think good that it get approved. If it was something extraordinary that the Commission thinks have to be changed, then that is your right to change it.

Commissioner Pane: All right, I understand.

Chairman Hall: Is everybody in agreement with what I said as well? Is there any objection to that?

Ed Meehan: Do you want to put that in as number eight? For clarification, or do you think it's all right as part of the record?

Commissioner Ganley: I think, the record substantiates the motion, there is clarity in what it is we are putting in, and if any question ever arises at a future date we can refer to those minutes and say, look, here is what we understood, here's what we all agreed on, it's just, same as the prior motion, in which I was referencing so that there be no misunderstanding about what it is we are doing, I think it makes it rather clear.

Commissioner Kornichuk: I personally feel that it should be written in there so this way, there is no, well, you know, it's not there. Let's cover it while we can, while it's in front of us. Let's get it all down on the paper.

Chairman Hall: How many feel that we should be more specific?

Commissioner Fox: I have to agree also, and Ed made the point, it could get lost in the minutes, if somebody comes in and, as an example, we have a letter in front of us on a free standing ATM and I had brought up in the beginning, didn't we approve a free standing ATM over at Rite-Aids when it was Brooks, so you know.....

Chairman Hall: Your memory is better than mine, I thought it was at Lowe's.

Commissioner Fox: So I think it should be in there, in the motion.

Chairman Hall: All right, that seems to be the consensus.

Commissioner Schatz: If you are going to have a soup kitchen, you have to have a kitchen, and this is not calling for a kitchen.

Chairman Hall: Well, no because actually there are churches where people make the food, and bring it and then serve it, so you don't necessarily have to. I mean, not that that is a bad thing, but .....

Commissioner Schatz: No, I'm just thinking back to the Methodist Church down there, they came in and said you can't use the kitchen any more, so.....

Chairman Hall: Right, but it just protects us a little bit more, that we are assuming that this is a house of worship and a place of congregation. That is what we are assuming, and that's what we are led to believe and that's what we want to approve.

Ed Meehan: The primary principal function is a religious function. Many churches, synagogues and places of worship do have soup kitchens that their congregation offers, but that is not their primary role. So I think that is the point that you are trying to make here. So if I could just sort of suggest this language, the special exception approval is limited to the religious uses as a principal use, and not for independent food pantry, soup kitchens, or shelters, residential shelters.

Commissioner Ganley: I think you would have to take the word independent out because they could say, well, we're sponsored, it's not independent.

Chairman Hall: We also want to make sure that their youth service is still covered, that's not any concern, it's just not doing a little bit more, inviting the public in or whatever, because of the parking, and the setup that we have, this is what we are assuming it is going to be.

Ed Meehan: So we could say, get rid of that independent, say is limited to places of worship and not for principal uses of shelter, homeless shelter, or just say shelter.....

Chairman Hall: Shelter or food services.

Ed Meehan: Okay, I want to read that back to you. The special exception approval is limited to places of worship, and not for principal uses related to shelter or food services.

Chairman Hall: Will the maker accept that amendment? I think it was Bob.

Commissioner Schatz: Yes.

Chairman Hall: And the second?

Commissioner Fox: Second.

The vote was unanimously in favor of the motion as amended with seven voting YES.

**VIII. PETITIONS FOR SCHEDULING (TPZ Wednesday, November 12, 2008 and Monday November 24, 2008.**

None.

**IX. PUBLIC PARTICIPATION  
(For items not listed on agenda)**

None.

**X. REMARKS BY COMMISSIONERS**

**A. Accessory Apartment Zoning Regulations**

Chairman Hall: We have brought this up twice in the past couple of months, and at this point the reason that I want to have it back on the agenda is to see if we want to carry this forward with the new information that we have. We've let it slide and we've had supplemental information, and I would like to get a consensus as to whether we can bring this back, full discussion, and solve this issue once and for all.

Commissioner Pruett: I think it's appropriate that we do re-address it with the amount of attention and a lot of the positive feedback that goes along with it. Couple of suggestions that I would like to see in there after reviewing the surrounding towns, and Ed's report, I like the idea of limiting only one outside door along the front for new petitions, and requiring access into the accessory apartment from within the principal residence, I like that provision. I think Wethersfield has that and Berlin. Also the entire structure maintains the presence of the neighborhood of a single family house. That's my input for that.

Commissioner Ganley: Simply in view of the two letters that we got from our Town Attorney it can't be anything that would imply any limitations by virtue of one's age, sex, blood relative, etcetera, etcetera, that when they come in for a permit they are simply getting a very straight



forward apartment. You can't try to put any sort of clever language in there that would imply, don't give the impression of someone coming in, that they are getting something that they are not getting. When they come into apply, they're told, this is an apartment, this is what you are going to build, here are the spec's, here's the regs, go to it. I don't think you should have any problem.

Commissioner Fox: Thank you Madam Chairman, and at the same time, we, if the Commission should approve an application for quote unquote accessory apartment within a particular piece of property, as Tom said, we would not be limiting it to age, relative, blood relative, whatever, anyone as a matter of fact, so that anyone that applies for an accessory apartment can actually have anyone they want move in there, okay, and Ms. Brecker had mentioned that it was going to be complicated to do this, and also have the property not become a boarding house. There is nothing really that would stop anybody from renting it out to anybody else. That is my main problem with this, and it was my main problem with the original special exception because, as it turns out we were, it was illegal because we did limit it to relatives, but there was never anything in place to enforce the fact that if the relative should move out, or should pass away, or for any other reason leave that apartment, there is nothing to stop the owner of the house from allowing anyone else to use it. True, it was on the deed, but I don't know how many times, I know we don't have enough people on the other side of that wall to check every single one of these, and that was one of the main reasons I would have to agree with Commissioner Pane and say that it's best left alone. I wouldn't mind talking about it, actually I would like to express my views a little more in front of the public, and, as Domenic said, there is nothing to stop anybody from putting an addition on their home, an extra bedroom, sitting room, bathroom, a little dinette, a porch with a microwave so they can cook, so I really don't think we need the accessory apartment special exception any more. Plus, Karen, who I have known for many, many years and she has always been an advocate of the seniors and the elderly in town, she and her husband both, but as far as independence is concerned, an aged relative moving into an apartment without a kitchen, but I know, in a lot of cases, it kind of forces a little more shall I say, family camaraderie, sit at the dinner table, eat, nothing to stop the aged relative from helping to cook the meals, to clean the house, and so I really don't think that the accessory apartments with all of the problems that it would bring up would be a good idea to re-initiate the special exception. Thank you.

Commissioner Schatz: I was giving that some thought today, I sort of favor the Berlin one, and I also favor the entrance from inside, not the outside, number one. Number two, in today's age kids don't have problems, they have issues, when they are misbehaved, they don't misbehave, they are just misguided, so what we need is a little bit different name on this. We need a little different name on it, but I favor the Berlin side of it, what Berlin had in theirs. Yes, as Commissioner Pane said, you can build an addition onto your home, other than the kitchen, so you are talking about an addition of a kitchen that would have to be approved, but I favor the inside entrance, not the outside entrance, and why I do that, is that if something happened to the folks, and you couldn't get to them, you would have to run all the way around the outside to get in there, and this is what you are supposed to be doing, taking care of them.

Commissioner Casasanta: I would be in full support of putting this on the agenda at a latter date for full discussion. I think it's too important not to have a full discussion of it.

Chairman Hall: Including public hearing?

Commissioner Casasanta: Including public hearing, yes.

Chairman Hall: I know that one of the concerns about having an apartment is the rental aspect of it, and with rentals, there are a myriad of issues. One of the problems is parking, and number of vehicles. In any regulation that we create can we limit the number of vehicles on a property according to square footage, number of garages therefore a maximum of four cars if it's a two car

garage, that kind of thing. Is there anything we can do as far as that, because that would certainly, I know certainly condominium complexes have the right to do that, there are some right here in town that if you have more than two vehicles you can't buy a unit there because they won't give you more than two stickers for your cars.

Ed Meehan: You can limit garages now, there is a ratio about how big a garage you can have, but as far as the number of vehicles, there is nothing directly that says you can't have more than three vehicles, you can't have more than four vehicles but the regulations speak to the requirement that the vehicles have to be parked on a hard surface....

Chairman Hall: And they have to be registered.

Ed Meehan: They have to be registered, they have to be setback from a property line a certain distance and this came up in the discussions back in June and July and Michelle brought it up, was let's try to nail down, if you are going to have an accessory apartment, you will have to have X number of parking spaces for the tenants, so the draft that was marked up and circulated was for accessory parking for these in-law apartments or let's just call them accessory apartments because we can't call them in-law, you have to have at least two spaces for that particular unit, and the principal residence under the zoning regulations can have two, one, three as long as they meet the setback requirements and they don't pave the whole front yard.

Chairman Hall: Well, see that's the other thing. If they just put a gravel drive or a gravel surface they can go border to border. Our regulations are for asphalt or hard surface.

Ed Meehan: Let me just, because there are some requirements that would affect that.

Chairman Hall: That could be very ugly.

Commissioner Fox: I don't know if, I don't think the regulations state the material, just says driveway because you see a number of houses, some interior lots, with gravel driveways, of course, there will never be another one, and there are some of these older homes, one building on the lot and have gravel driveways and I don't know whether it is just a lack of enforcement or just not enough people to enforce it, but they are there.

Chairman Hall: But it doesn't have to be the whole driveway. What I have seen is hard surface driveway and then a gravel side, so they can park two cars parallel to or adjacent to the hard surface.

Commissioner Fox: Right, and there is nothing to stop that.

Commissioner Camerota: I thought that was a violation because we dealt with this on ZBA and it was a violation to.....

Ed Meehan: If it's closer than five feet.

Commissioner Camerota: Right, just because you have gravel doesn't mean you don't have to comply with the setbacks.

Ed Meehan: The regulations say, at least two permanently maintained durable adequately clear and surface off street parking spaces shall be provided for every dwelling unit except as otherwise stated in these regulations, and that has to do with the condo's and senior housing. All parking of vehicles shall be on the surfaced area, not on the lawn. The surface area shall not exceed fifty percent of the front lawn, the area between the street line to the front exterior wall of

the residence. It can be pavement, but if you had crushed stone or paving blocks, they can't encroach in that five foot offset. If you did, then you would be in violation of the zoning setback requirements. Just as if it was black top.

Commissioner Fox: That's what I'm saying, so there is nothing to stop somebody from doing that as long as they observe the setbacks.

Chairman Hall: And the fifty percent.

Ed Meehan: If you get into the higher density zones, the R-7 zone, where they have smaller front yards, then the number of vehicles and the opportunity for on-site parking becomes limited. We see this on Eighth Avenue and Seventh....

Chairman Hall: And Adam Drive.

Ed Meehan: Adam Drive and some of those developments, don't have public streets, whereas in the R-20 and R-12 Zones at least the newer lots, the legitimate R-12 lots, not the old ones that are non-conforming, you normally have enough parking.

Commissioner Pane: None of that stops the main problem, which is it could turn into a rental unit, whether they have two cars, four cars, whatever, it really doesn't matter, but it could turn into a rental apartment. The time it turns into a rental apartment sometimes is when the property transfers. This is a special exception, it travels with the property. We can't stop that fact and so that is my biggest concern.

Commissioner Fox: And if you go on the MLS site you will see a number in Newington and other towns that say possible in-law apartments.

Chairman Hall: Right. It happens all the time, even now when we don't have the possibility for it, it says possible in-law.

Commissioner Fox: But if they know that there is an extra apartment there so that is the way that they will advertise it, sells faster, probably, and then, maybe I can rent this little apartment out.

Chairman Hall: Well the issue has been forwarded this evening that we bring this back, and that is what I think I want to get now is consensus that we bring this back, full blown or if you are happy with it the way that it is, and say forget it, I don't want to. I need a consensus on whether or not people want to bring this back.

Commissioner Kornichuk: I'm willing to bring it back.

Chairman Hall: Back, back.....

Commissioner Pane: I think it's going to lead to problems, but if you want to bring it back, I'm open to it if the Commission wants it.

Commissioner Fox: I'm willing to bring it back.

Commissioner Pruett: Nothing wrong with a healthy discussion.

Chairman Hall: All right, now the other thing, we do have two meetings in November, one which is not on the normal night, whether people will be confused by that or not, and the next one is the first one in November. Is that soon enough to bring it back, or is it too soon?

Ed Meehan: When you say bring it back, you're saying for public hearing?

Chairman Hall: That's what I'm saying, do we have.....

Ed Meehan: Well, there are a couple of issues here. This is a type of zone amendment that does have to be referred to the Capitol Region Council of Governments, so you have up to thirty days lead time.

Chairman Hall: So maybe December, or even January.

Ed Meehan: Probably December, CRCOG will turn it around quickly, if we get them in the right meeting cycle. I don't think you have enough time for the first meeting and the second one is the....

Chairman Hall: The 24<sup>th</sup>, and that is Thanksgiving week, and I really don't want to do it Thanksgiving week because I have a funny feeling that people might think, oh sure, they put it in on that week when I can't go, and I don't want to cause any kind of issue with this. I want to bring it back so that people can come, talk to us, give us their opinion, and then we decide what we are going to do. I mean, this is not a fait accompli, this is let's listen and then discuss it.

Ed Meehan: Let me suggest this to the Commission, that you shoot for your first meeting in December, and I take care of the procedural requirements to make that happen, and in the mean time, I clean up this draft, which was dated June 11<sup>th</sup>, with notes from your July 9<sup>th</sup> meeting. Clean it up, and give you a revised draft for your next meeting.

Chairman Hall: Good, to review and then we bring it back in December we'll have something to think about.

Ed Meehan: Yeah, get it in the shape that you want it, at least as close as you want it, I mean there are things here that everybody can't agree on, but you don't have to agree on it, the purpose is to get it to the public hearing.

Chairman Hall: Bring it to the public and then again have a healthy discussion around the table, once we've heard. And who knows, maybe nobody will come, maybe it's just an issue that we think is an issue, but there is no way of knowing until we get it out there.

Ed Meehan: I think also that you had a good discussion tonight, and you have learned some more information since last June about this and some of this is going to be educating the public to what your limitations are about not regulating the occupants, and some of the issues of renting and not being, not limiting it to your in-laws or people who are over 65 and so forth, you know, the public doesn't know that yet as much as you know about it, the legal side, so that again is an education process.

Chairman Hall: Okay, so everybody is in agreement about this.

Commissioner Pruett: Do you want to discuss further on this proposed draft from June 11<sup>th</sup>, or do you have enough information to revise it as a new draft or do you want to discuss more amendments or additions or deletions.

Chairman Hall: Well, that's why we're here tonight, if you have something that you want to state right now.

Commissioner Pruett: I would like to get a consensus if people agree with my suggestion about limiting it to an outside entrance and also accessible from the inside.

Commissioner Pane: I agree with you. If you were going to have it, I would definitely want that, and I also would want to make sure that it was approved on a per case basis, if possible, and not travel with the property, or travel with the property with conditions that each approval is based on the condition of who is coming in.

Chairman Hall: Well, they have to come back before us, now we had that before as I remember. When they were going to transfer the property, if someone wanted to buy it, they had to come before us and get approval for their new use.

Commissioner Camerota: Is that a problem with enforcement, were people not doing that?

Chairman Hall: Yeah, and that will always be the issue, and there is also nothing to keep people from putting a kitchen in their home, and maybe going along with the interior access, but, they can do that now.

Commissioner Pane: You can approve this without a kitchen too, and then nobody is going to want to rent the thing because nobody is going to want to rent it and eat with you. Well, I don't understand why a kitchen, a full kitchen is absolutely necessary.

Chairman Hall: Right, and we can come up with a discussion, I think each one of us has something to contribute to this and once we get it all out on the table and we hear each others ideas, we will have a much better idea as to where we want to end up. Right now I think we are all sort of talking among our own peers or whatever about this, and have been for years, two years now, isn't it, just about two years, so now is the time to get it back on the table and on the record, and see where we go from here. I think everybody has a good idea on something and that is what we want to hear.

Commissioner Pane: I think if you are going to have this out just before the public hearing I think Ed should do some sort of article explaining....

Chairman Hall: That it's coming back on.....

Commissioner Pane: Well, that it is coming to hear, and maybe he could give some insight on some of the problems in the article, so at least the people would have a general idea of what some of the problems were so that you would get a better mix of people coming in maybe, instead of just putting a small public hearing notice in. Maybe a little promotional thing between you and Ed out to the papers, or Channel 14 would be better.

Chairman Hall: Okay, thank you. Other questions, suggestions, concerns? Okay, are we done with this, we can put this to bed, no more comment? Thank you.

Commissioner Fox: I owe the Commission an apology, I just remembered that I moved to accept the minutes of October 7<sup>th</sup>, and I just remembered as I was looking at page eleven that I had noticed this, on the line that says, I'm quoted as saying, the one next to D & D, that should be C & C. There is no D & D.

Chairman Hall: There is, there is a D & D in Hartford.

Commissioner Fox: Right, but not there.

Chairman Hall: Okay, any other remarks by Commissioners?

**XI. STAFF REPORT**

**A. Bond Release – Aldi Site**

Commissioner Fox moved that the bond release for the Aldi site be moved to Old Business. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

**Aldi Store Site Development  
Bond Release Request**

Commissioner Pane moved that the \$5,000 bond posted by Contracting Management Inc. for the Aldi Store site improvements, in particular re-seeding and erosion control, be released all work having been satisfactorily completed.

The motion was seconded by Commissioner Pruett.

Chairman Hall: Discussion? Ed?

Ed Meehan: It was inspected last week and it's started to germinate very nicely, it's coming in good, so they get their money back.

The vote was unanimously in favor of the motion, with seven voting YES.

Commissioner Pane: Madam Chairman?

Chairman Hall: Yes.

Commissioner Pane: Could we get a staff report on the Rockledge, the report on the Rockledge improvements on the erosion control between the two neighbors, how that went?

Ed Meehan: The work was completed over the Columbus Day weekend by a landscape company. From his feedback to me it went well. He talked to both adjoining property owners and I went down and inspected the work before he started as well as after he finished the work. It looked satisfactory. I left a lengthy phone message with the owner of 62 Rockledge, that is the party that the bond was called on, Mr. Alderi, encouraging him to carefully water the slope, we haven't had much rain at all in October and I hope he's proceeded with that. Had a conversation before the work started with Steve Tabor who is 52 Rockledge. He began some work down there, he put up an erosion fence and then he took it down, but in the process of doing that he cut back to the area that he felt where his property line was which meant that the slope came down in a very sharp vertical elevation. It went from anywhere from six inches to two feet in some locations which when the landscape fellow who came down with me first inspected the property, that work had not been done by Mr. Tabor and we felt we could have maybe, you know, because Steve said we could go on his property, spread some of the junipers all the way down to toe of slope, but a couple of days later he went at that and changed it. It's his property so it's going to further, if we do have a heavy rain, it could cause erosion because in a vertical slope like that, and it's a loose material, unfortunately it could undermine the work above it. I think he was going to try to do some stones in there, I'll call it like a knee wall, but he did carve it out and made probably the job a little bit harder for the landscape guy to do it, but the work is done.

Commissioner Pane: Okay, thank you very much.

Ed Meehan: I think we ended up with about seventy-five eighteen inch spreading junipers there. So if they catch, with a little Miracle-Gro and some water, they will catch.

Chairman Hall: Right. Any other questions or additions in this section? The second one is the 2006-2016 Plan of Conservation and Development.

#### B. 2006-2016 Plan of Conservation and Development

Ed Meehan: There is a quick memo and suggested work plan in your packet tonight, obviously we have a lull in commission working matters right now, last two agenda's, I haven't seen this type of work load in probably twenty years as far as development applications in town, and we are required to get back on this, so I have worked up a schedule. Some work we started almost a year ago, we did the inventory on the land use, the vacant land, we discussed some of the opportunity sites with the Town Council, at their vision retreat when the new Town Council came on board last year. I met with the Development Commission about the plan, opportunity sites. The Conservation Commission has discussed it, so we need to re-start the process. Over the summer we applied for and were awarded a \$20,000 grant from the Office of Policy and Management, to help move this along. I'm working on a request for proposal now which I will share with the Commission to retain a planning consultant to do some of the baseline information for this project which is almost like doing a college term paper, for like the population component, or the economic base in the community, some of the demographics of housing, household information, and if you had a chance to look at the schedule, trying to get some of that done up front and then get into workshops over the winter, to get as much public participation as possible. The adoption process is different than what it was ten years ago. There are different stages of having a draft which the regulations, the state statutes are somewhat confusing, they talk about a preliminary draft, then a final draft, and the final draft can't be actually adopted by the Commission until it goes back before the Town Council now, which is our legislative body under Connecticut law. So we basically take it all the way up to a draft, and we refer it to the town council, they have input in that process, and they can give feedback back to you, saying that they don't like some of your recommendations. Let's say as part of your plan you promoted a capital improvement program, say a million dollars for sidewalks, or a million dollars for open space, and you put it in the plan as recommendations. The Council could say, we really don't think that you ought to be doing that because of the fiscal implications of it, and so forth, and they could ask you to remove it. If the Commission said no, we don't want to remove it, it's a standoff, but you can only over ride the Council recommendation by a two thirds vote, so that is the checks and balances in this. But there is a lot of information from the previous plan that we can take off from, I think we can probably re-use some of the vision statements, we can use some of our goals, statements that are pretty generic, and one of the places that I want to go next with this is circle back, revisit that plan, and give you a check list. What we have done, what we haven't done, and bring everybody up to speed on that, so I will try to have that ready for you for the next meeting, as well as the RFP.

Commissioner Pane: Wouldn't it be useful to go through it, line by line almost?

Ed Meehan: We did that, and that would be part of the exercise.....

Commissioner Pane: I thought we had this conversation about a year ago, yeah, about a year ago, we were going to look at it, a little bit each meeting and line by line and get, see what we wanted to keep, what we wanted to, you know.

Ed Meehan: I have from that meeting the marked up version, exactly. We started to go through it, I think we got through the basic inventory of the land use and that map over there is the land use map, whichever way you want to do it, and how ever much time you want to devote to it, it's up to you.

Chairman Hall: My thought also was, and this will develop as time goes on, creating some sub-groups, that take sections of it and work on it, instead of having everybody do everything. That also may help you with something that you have a particular interest in, spending a little bit more time on one part of it, that's a thought that I had. We'll discuss that as well.

Ed Meehan: I have a request, it's on the table, it came in after the agenda went out, from the Bank of America, a consultant working with the bank has posed a question, and it's a zoning interpretive question, I don't see it in black and white in the regulations, nor did the zoning officer so I want to bring this to your attention, get your guidance on it, the questions is about an ATM kiosk, and I guess there are two parts to this question. One, do you see this being permitted in the zoning regulations as a use, that's a yes, no or maybe question I guess, and if it is, then if the answer is yes, then they would like to propose this for Lowe's parking lot and the proper way to do that would be to come in with a site plan modification. If you say no, you don't think it's permitted in the zoning regulations, for various reasons, they have the option to petition to amend the regulations, or just not to pursue it. When we looked at this, looking at it from staff level, the only one that we can see actually operating in Newington right now is the one that is associated with Webster Bank on the Berlin Turnpike. They have like an accessory ATM island. There is no other operating separate ATM island in Newington. There are provisions in the zoning regulations that permit banks in all of your business zones, if you interpret this as a bank, I don't know.

Commissioner Pane: Is Bank of America bringing it in, or Lowe's?

Ed Meehan: Well, this is coming from a firm that represents the Bank of America, Approach Architects, and their client is Bank of America. The letter is dated October 17<sup>th</sup>, on the table here. Just before the meeting, Mike reminded me that there was a pad island in the Brooks Plaza. I went back and pulled the mylar for that, this is the Brooks Plaza when they came in for their drive in window. It was approved back in January of 2002 and they do have, in the center island, a concrete sidewalk, proposed ATM kiosk. It was never built. The project was brought in and approved under Covest Development Group, and then the property was resold to Hayes Kaufmann, the current owners and they just left it a landscaped island, so it was never, no building permits were exercised for it.

Commissioner Ganley: Has it expired, I mean, would they have to come back?

Ed Meehan: Well, this has expired because the five years are up.

Commissioner Fox: Yeah, the five years are up, but if they had wanted to do it two years ago, they could have done it. But, now, there was no special exception for that property except for the drive through, if I'm not mistaken.

Ed Meehan: It was treated just as part of the site plan.

Commissioner Fox: So it was part of the site plan, so I wouldn't see any precedent for making them go in for an amendment to the regulations, I don't see why they just can't come in for a site plan modification. That's my opinion.



Commissioner Pane: Would it be considered a drive-up?

Ed Meehan: Yeah, it's not a food service drive-up, but it's a drive up, drive through.

Commissioner Pane: So you're allowed to have a drive through as long as it not a food related.

Ed Meehan: As long as it's not food, you can do banks, you can do, well, we had Zoots with the laundry.

Commissioner Pane: That food drive though is only on the turnpike, though?

Ed Meehan: Any where in town now.

Chairman Hall: Now if we say yes to this one, does it open the door say, the Lowry Place parking lot, Stew Leonard's parking lot, WalMart parking lot, Shaw's, any of those, once we do one, then these could become an accessory in any parking lot because of precedent.

Commissioner Fox: Yeah, but would that be a problem? Anybody, would that be a problem in any of the existing parking lots, like Stew Leonard's and Sam's?

Chairman Hall: Well, it depends because some of them at this point are so heavily landscaped with their little islands, and now all of a sudden you're going to get a kiosk in there as well....

Commissioner Fox: If it reduces the green space.....

Chairman Hall: Well it does that too, it also is one more obstacle in the course.

Commissioner Casasanta: But if we had already approved it for the Brooks pharmacy area....

Chairman Hall: But it was part of their site plan, it wasn't an independent....

Commissioner Casasanta: But to Mike's point, if they came in with a site plan modification, as long as the site plan modification was agreeable, but I would think we kind of already opened the door in permitting that type of a structure in the parking area. Now the question is, is it right for that particular parking area, and I guess that would be the question that would need to be answered as opposed to, is it permissible in any parking area?

Ed Meehan: That is the zoning question because do you need an ATM drive-up as an accessory to a principal use such as Webster Bank or are you going to interpret this as a bank service or a bank, in quotes, that can be independent of a traditional building such as a bank, and I think what Commissioner Casasanta is pointing out is that the Commission has done that at Brooks, there was no bank that was part of that site plan.

Commissioner Fox: No, so that was the bank. Okay, it was a walk-up, was it a walk-up or drive-up.....

Ed Meehan: It was a walk up, it wasn't a drive through.

Commissioner Fox: It was a walk-up window, so as I said, as long as it meets green space, setbacks, traffic patterns, egress, and safety are not jeopardized....

Commissioner Ganley: In addition to the issue that Mike raised about re-using some of the parcel, there is parking. We said you have to have so many parking spaces for so many square

feet, so we have to address the issue of actually eliminating some parking spaces to get access or swing around, if you will, so it really comes back to site plan. If we say, we don't want one there because you can't, you're doing away with more parking spaces than we thought in the first place and you are also encroaching on some of the green area, so no. Another applicant comes in and says, okay, look, I'm putting mine over there, and we calibrate the thing and say, okay. Parking is okay, green space is okay, you can have it, you can't. I don't see a problem.

Chairman Hall: Other comments? Domenic, did you have something?

Commissioner Pane: That was the same point that I was going to suggest, and it might be a good thing to have them come in for a vote because then maybe it will correct some of the other violations.

Chairman Hall: Any others? Did we come to a conclusion?

Ed Meehan: A representative of the firm is sitting back there looking for some sort of a consensus. The way I read the board is that you would let it, permit it by site plan approval.

Commissioner Pane: I think we have to.

Ed Meehan: Because of the Brooks precedent?

Commissioner Pane: I think so.

Commissioner Fox: The staff report should probably go through that so many spaces have to be.....

Ed Meehan: Yeah, they can't make themselves non-conforming as far as the parking spaces.

Chairman Hall: And not to close to the entrance or exits, safety, etc., Anything else?

Ed Meehan: The zoning regulations, for those who like to read these, also on line, they are updated through your last effective amendments which incorporated all the national flood insurance changes and changes to the fence, fence location and design.

Chairman Hall: I have already had two people ask me about that, and they have been thrilled with the new regulations.

## **XII. ADJOURNMENT**

Commissioner Kornichuk moved to adjourn the meeting. The motion was seconded by Commissioner Fox. The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Norine Addis,  
Recording Secretary